

Senate File 2327 - Introduced

SENATE FILE 2327

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3190)

A BILL FOR

1 An Act relating to the administration of the tax and related
2 laws by the department of revenue, including the renewable
3 energy tax credit, the solar energy system tax credit,
4 appeal procedures for certain centrally assessed property,
5 an extension of the utility replacement tax task force,
6 requiring background checks for job applicants and persons
7 performing work for the department of revenue, a sales and
8 use tax exemption for certain items used in performance of
9 a construction contract with designated exempt entities,
10 and including effective date and retroactive and other
11 applicability provisions.
12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **421.48 Background checks.**

2 An applicant for employment with the department of revenue
3 shall be subject to a national criminal history check through
4 the federal bureau of investigation. A contractor, vendor,
5 employee, or any other individual performing work for the
6 department of revenue, shall be subject to a national criminal
7 history check through the federal bureau of investigation
8 at least once every ten years. The department of revenue
9 shall request the national criminal history check and shall
10 provide the individual's fingerprints to the department
11 of public safety for submission through the state criminal
12 history repository to the federal bureau of investigation.
13 The individual shall authorize release of the results of the
14 national criminal history check to the department of revenue.
15 The department of revenue shall pay the actual cost of the
16 fingerprinting and national criminal history check, if any.
17 The results of a criminal history check conducted pursuant to
18 this section shall not be considered a public record under
19 chapter 22.

20 Sec. 2. Section 422.11L, subsection 3, paragraph d, Code
21 2016, is amended to read as follows:

22 d. (1) A taxpayer must submit an application to the
23 department for each separate and distinct solar installation.
24 The application must be approved by the department in order to
25 claim the tax credit. The application must be filed by May
26 1 following the year of the installation of the solar energy
27 system.

28 (2) The department shall accept and approve applications
29 on a first-come, first-served basis until the maximum amount
30 of tax credits that may be claimed pursuant to subsection 4
31 is reached. If for a tax year the aggregate amount of tax
32 credits applied for exceeds the amount specified in subsection
33 4, the department shall establish a wait list for tax credits.
34 Valid applications filed by the taxpayer by May 1 following the
35 year of the installation but not approved by the department

1 shall be placed on a wait list in the order the applications
2 were received and those applicants shall be given priority
3 for having their applications approved in succeeding years.
4 Placement on a wait list pursuant to this subparagraph shall
5 not constitute a promise binding the state. The availability
6 of a tax credit and approval of a tax credit application
7 pursuant to this section in a future year is contingent upon
8 the availability of tax credits in that particular year.

9 Sec. 3. Section 422.11L, Code 2016, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 6. For purposes of this section, "*Internal*
12 *Revenue Code*" means the Internal Revenue Code of 1954, prior
13 to the date of its redesignation as the Internal Revenue Code
14 of 1986 by the Tax Reform Act of 1986, or means the Internal
15 Revenue Code of 1986 as amended to and including January 1,
16 2016.

17 Sec. 4. Section 423.3, subsection 80, Code 2016, is amended
18 to read as follows:

19 80. *a.* For purposes of this subsection, "*designated exempt*
20 *entity*" means an any of the following:

21 (1) An entity which is designated in section 423.4,
22 subsection 1 or 6.

23 (2) An entity which is an instrumentality of a county or
24 municipal government, including an agent of such entity, if
25 the entity was created for the purpose of owning, including
26 pursuant to a lease-purchase agreement, real property located
27 within a reinvestment district established under chapter 15J.

28 *b.* If Subject to the limitations in paragraph "c", if
29 a contractor, subcontractor, or builder is to use building
30 materials, supplies, and equipment in the performance of a
31 construction contract with a designated exempt entity, the
32 person shall purchase such items of tangible personal property
33 without liability for the tax if such property will be used in
34 the performance of the construction contract and a purchasing
35 agent authorization letter and an exemption certificate, issued

1 by the designated exempt entity, are presented to the retailer.

2 c. (1) The With regard to a construction contract with
3 a designated exempt entity described in paragraph "a",
4 subparagraph (1), the sales price of building materials,
5 supplies, or equipment is exempt from tax by this subsection
6 only to the extent the building materials, supplies, or
7 equipment are completely consumed in the performance of the
8 construction contract with the designated exempt entity.

9 (2) With regard to a construction contract with a designated
10 exempt entity described in paragraph "a", subparagraph (2),
11 the sales price of building materials, supplies, or equipment
12 is exempt from tax by this subsection only to the extent the
13 building materials, supplies, or equipment are completely
14 consumed in the performance of a construction contract to
15 construct a project, as defined in section 15J.2, subsection
16 10, which project has been approved by the economic development
17 authority board in accordance with chapter 15J.

18 ~~e. d. Where~~ Subject to the limitations in paragraph "c",
19 where the owner, contractor, subcontractor, or builder is also
20 a retailer holding a retail sales tax permit and transacting
21 retail sales of building materials, supplies, and equipment,
22 the tax shall not be due when materials are withdrawn from
23 inventory for use in construction performed for a designated
24 exempt entity if an exemption certificate is received from such
25 entity.

26 ~~d. e. Tax~~ Subject to the limitations in paragraph "c", tax
27 shall not apply to tangible personal property purchased and
28 consumed by a manufacturer as building materials, supplies, or
29 equipment in the performance of a construction contract for a
30 designated exempt entity, if a purchasing agent authorization
31 letter and an exemption certificate are received from such
32 entity and presented to a retailer.

33 Sec. 5. Section 429.2, subsection 2, paragraph c, Code 2016,
34 is amended to read as follows:

35 c. The director of revenue shall consider all evidence and

1 witnesses offered by the taxpayer and the department, including
2 but not limited to evidence relating to the proper valuation of
3 the property involved.

4 Sec. 6. Section 437A.15, subsection 7, paragraph b, Code
5 2016, is amended to read as follows:

6 b. The task force shall study the effects of the replacement
7 taxes under this chapter and chapter 437B on local taxing
8 authorities, local taxing districts, consumers, and taxpayers
9 through January 1, ~~2016~~ 2019. If the task force recommends
10 modifications to the replacement tax that will further the
11 purposes of tax neutrality for local taxing authorities, local
12 taxing districts, taxpayers, and consumers, consistent with the
13 stated purposes of this chapter, the department of management
14 shall transmit those recommendations to the general assembly.

15 Sec. 7. Section 437B.11, subsection 7, Code 2016, is amended
16 to read as follows:

17 7. The utility replacement tax task force created in section
18 437A.15 shall study the effects of the replacement tax on
19 local taxing authorities, local taxing districts, consumers,
20 and taxpayers through January 1, ~~2016~~ 2019. If the task
21 force recommends modifications to the replacement tax that
22 will further the purposes of tax neutrality for local taxing
23 authorities, local taxing districts, taxpayers, and consumers,
24 consistent with the stated purposes of this chapter, the
25 department of management shall transmit those recommendations
26 to the general assembly.

27 Sec. 8. Section 476C.1, subsection 6, paragraph d, Code
28 2016, is amended to read as follows:

29 d. Was initially placed into service on or after July 1,
30 2005, and before January 1, ~~2017~~ 2018.

31 Sec. 9. Section 476C.3, subsection 4, paragraph b,
32 subparagraph (3), Code 2016, is amended to read as follows:

33 (3) (a) Of the maximum amount of energy production capacity
34 equivalent of all other facilities found eligible under this
35 chapter, ten megawatts of nameplate generating capacity or

1 energy production equivalent shall be reserved for solar energy
2 conversion facilities with that meet all of the following
3 requirements:

4 (i) The facility has a generating capacity of one and
5 one-half megawatts or less.

6 (ii) The facility is owned, in whole or in part, directly
7 or indirectly, or is contracted for, by utilities described in
8 section 476C.1, subsection 6, paragraph "b", subparagraphs (4)
9 and (5).

10 (iii) The facility is located in this state.

11 (iv) The facility meets the requirements of section 476C.1,
12 subsection 6, paragraphs "d" through "f".

13 (b) A solar energy conversion facility that meets the
14 requirements of and is found eligible under subparagraph
15 division (a) shall be considered an "eligible renewable energy
16 facility" for purposes of this chapter, notwithstanding any
17 contrary provisions of section 476C.1, subsection 6.

18 Sec. 10. Section 476C.3, subsection 7, Code 2016, is amended
19 to read as follows:

20 7. a. An owner meeting the requirements of section 476C.1,
21 subsection 6, paragraph "b", shall not be an owner of more than
22 two eligible renewable energy facilities. A person that has
23 an equity interest equal to or greater than fifty-one percent
24 in an eligible renewable energy facility shall not have an
25 equity interest greater than ten percent in any other eligible
26 renewable energy facility. This paragraph "a" shall not apply
27 to facilities described in section 476C.3, subsection 4,
28 paragraph "b", subparagraph (3).

29 b. An entity described in section 476C.1, subsection 6,
30 paragraph "b", subparagraphs (4) or (5), shall not have an
31 ownership interest in more than four facilities described in
32 section 476C.3, subsection 4, paragraph "b", subparagraph (3).

33 Sec. 11. Section 476C.5, Code 2016, is amended to read as
34 follows:

35 **476C.5 Certificate issuance period.**

1 A producer or purchaser of renewable energy shall receive
 2 renewable energy tax credit certificates for a ten-year period
 3 for each eligible renewable energy facility under [this chapter](#).
 4 The ten-year period for issuance of the tax credit certificates
 5 begins with the date the purchaser of renewable energy first
 6 purchases electricity, hydrogen fuel, methane gas or other
 7 biogas used to generate electricity, or heat for commercial
 8 purposes from the eligible renewable energy facility for
 9 which a tax credit is issued under [this chapter](#), or the date
 10 the producer of the renewable energy first uses the energy
 11 produced by the eligible renewable energy facility for on-site
 12 consumption. Renewable energy tax credit certificates shall
 13 not be issued for renewable energy purchased or produced for
 14 on-site consumption after December 31, ~~2026~~ 2027.

15 Sec. 12. SOLAR ENERGY SYSTEM TAX CREDIT
 16 APPLICATIONS. Notwithstanding the provision in section
 17 422.11L, subsection 3, paragraph "d", which requires
 18 applications for the solar energy system tax credit to be
 19 filed by May 1 following the year of the installation, all the
 20 following shall apply:

21 1. Applications for the solar energy system tax credit
 22 filed after May 1, 2015, for solar energy systems installed
 23 during the 2014 calendar year, shall be eligible for approval
 24 under section 422.11L. Such applications shall be accepted and
 25 approved on a first-come, first-served basis and shall first
 26 be eligible for approval for the tax year during which the
 27 application is received, but not before the tax year beginning
 28 January 1, 2016.

29 2. Applications for the solar energy system tax credit
 30 filed after May 1, 2016, for solar energy systems installed
 31 during the 2015 calendar year, shall be eligible for approval
 32 under section 422.11L. Such applications shall be accepted and
 33 approved on a first-come, first-served basis and shall first
 34 be eligible for approval for the tax year during which the
 35 application is received, but not before the tax year beginning

1 January 1, 2017.

2 Sec. 13. EFFECTIVE UPON ENACTMENT. The section of this
3 Act providing for the approval of solar energy tax credit
4 applications filed after May 1 following the year of the
5 installation for solar energy systems installed during the 2014
6 and 2015 calendar years, being deemed of immediate importance,
7 takes effect upon enactment.

8 Sec. 14. EFFECTIVE UPON ENACTMENT. The following
9 provision or provisions of this Act, being deemed of immediate
10 importance, take effect upon enactment:

11 1. The section of this Act enacting section 421.48.

12 2. The section of this Act amending section 423.3,
13 subsection 80.

14 3. The section of this Act amending section 429.2.

15 4. The section of this Act amending section 437A.15.

16 5. The section of this Act amending section 437B.11.

17 6. The section of this Act amending section 476C.1.

18 7. The sections of this Act amending section 476C.3.

19 8. The section of this Act amending section 476C.5.

20 Sec. 15. RETROACTIVE APPLICABILITY. The following
21 provision or provisions of this Act apply retroactively to
22 January 1, 2015, for construction contracts entered into on or
23 after that date.

24 1. The section of this Act amending section 423.3,
25 subsection 80.

26 Sec. 16. RETROACTIVE APPLICABILITY. The following
27 provision or provisions of this Act apply retroactively to
28 January 1, 2016:

29 1. The section of this Act amending section 437A.15.

30 2. The section of this Act amending section 437B.11.

31 Sec. 17. RETROACTIVE APPLICABILITY. The following
32 provision or provisions of this Act apply retroactively to
33 January 1, 2015, for tax years beginning on or after that date:

34 1. The section of this Act enacting section 422.11L,
35 subsection 6.

1 Sec. 18. RETROACTIVE APPLICABILITY. The following
2 provision or provisions of this Act apply retroactively to
3 January 1, 2016, for tax years beginning on or after that date:

4 1. The section of this Act amending section 476C.1.

5 2. The section of this Act amending section 476C.5.

6 Sec. 19. RETROACTIVE APPLICABILITY. The following
7 provision or provisions of this Act apply retroactively to
8 January 1, 2015, for tax years beginning on or after that date:

9 1. The sections of this Act amending section 476C.3.

10 Sec. 20. RETROACTIVE APPLICABILITY. The following
11 provision or provisions of this Act apply retroactively to
12 applications for the renewable energy tax credit made on or
13 after June 26, 2015:

14 1. The sections of this Act amending section 476C.3.

15 Sec. 21. RETROACTIVE APPLICABILITY. The following
16 provision or provisions of this Act apply retroactively to May
17 22, 2015:

18 1. The section of this Act amending section 429.2.

19 Sec. 22. APPLICABILITY. The section of this Act amending
20 section 423.3, subsection 80, applies to purchases made on or
21 after the effective date of the section of this Act amending
22 section 423.3, subsection 80.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to the administration of the tax and
27 related laws by the department of revenue.

28 BACKGROUND CHECKS. The bill requires an applicant for
29 employment with the department of revenue (department) at
30 the time of application, or a contractor, vendor, employee,
31 or any other individual performing work for the department
32 to be subject to a national criminal history check through
33 the federal bureau of investigation (FBI) at least once
34 every 10 years. The bill directs the department to provide
35 fingerprints to the department of public safety for submission

1 through the state criminal history repository to the FBI, and
 2 requires individuals to authorize release of the results to
 3 the department. The department is required to pay the actual
 4 costs of the fingerprinting and the criminal history check.
 5 The bill provides that the results of a criminal history check
 6 are not considered a public record under Code chapter 22 (open
 7 records). This provision takes effect upon enactment.

8 SOLAR ENERGY SYSTEM TAX CREDIT. The bill amends the Iowa
 9 solar energy system tax credit in Code section 422.11L, which
 10 is provided for the installation of a solar energy system in
 11 an amount equal to certain percentages of related federal
 12 solar energy tax credits. The bill requires that tax credit
 13 applications be accepted and approved by the department on a
 14 first-come, first-served basis until the maximum tax credit
 15 amount that may be claimed each tax year is reached. If
 16 tax credit applications exceed that maximum amount for a tax
 17 year, the bill requires the department to establish a tax
 18 credit wait list, and applications that were filed by the
 19 May 1 deadline but not approved will be placed on the wait
 20 list and given priority for having their application approved
 21 in succeeding years. The bill states that placement on the
 22 wait list does not constitute a promise binding the state,
 23 and the availability of a tax credit and approval of a tax
 24 credit application in a future year is contingent upon the
 25 availability of tax credits in that particular year.

26 Notwithstanding the requirement under current law that
 27 solar energy system tax credit applications be filed by May
 28 1 following the year of the installation, the bill provides
 29 that applications filed after that deadline for solar energy
 30 systems installed during the 2014 or 2015 calendar years shall
 31 be eligible for approval. Such applications are eligible for
 32 approval for the tax year during which the application is
 33 received, but not before tax year 2016 for installations made
 34 in 2014, and not before tax year 2017 for installations made in
 35 2015. This provision takes effect upon enactment.

1 The bill also defines "Internal Revenue Code" (IRC) for
2 purposes of the Iowa solar energy system tax credit to mean
3 the IRC in effect on January 1, 2016. Under current law for
4 purposes of the Iowa tax credit, IRC means that in effect on
5 January 1, 2015. This change has the effect of incorporating
6 into the Iowa tax credit changes made by Congress in 2015
7 to the related federal energy system credits for tax years
8 beginning in 2017 or later. In 2015, Congress extended the
9 expiration date for several of the federal energy system
10 tax credits upon which the Iowa tax credit is calculated
11 (IRC §25D(a)(1), §25D(a)(2), and §48(a)(2)(A)(i)(II)) to
12 January 1, 2022, from January 1, 2017. This provision applies
13 retroactively to January 1, 2015, for tax years beginning on
14 or after that date.

15 SALES AND USE TAXES. A sales tax exemption is provided under
16 current law to contractors, subcontractors, and builders for
17 the purchase of building materials, supplies, and equipment
18 completely consumed in the performance of a construction
19 contract with a designated exempt entity. The bill amends
20 the definition of "designated exempt entity" to include an
21 instrumentality of a county or municipal government, including
22 an agent of such entity, if the entity was created for the
23 purpose of owning, including pursuant to a lease-purchase
24 agreement, real property located within a reinvestment district
25 established under the Iowa Reinvestment Act in Code chapter
26 15J. The bill also provides that the purchase of building
27 materials, supplies, and equipment by such designated exempt
28 entities will only be exempt from the sales tax to the extent
29 such property is completely consumed in the performance of a
30 construction contract to construct a project that has been
31 approved by the economic development board under the Iowa
32 Reinvestment Act. The Iowa Reinvestment Act, in general,
33 authorizes municipalities to establish reinvestment districts
34 and receive remittances of specified amounts of state sales
35 tax and state hotel and motel tax revenues collected in those

1 districts for use in undertaking projects within the district.

2 By operation of Code section 423.6, an item exempt from the
3 imposition of the sales tax is also exempt from the use tax
4 imposed in Code section 423.5.

5 The sales and use tax provisions take effect upon enactment
6 and apply to purchases made on or after that date, and apply
7 retroactively to January 1, 2015, for construction contracts
8 entered into on or after that date.

9 CENTRALLY ASSESSED PROPERTY. The bill adds the department
10 of revenue to the list of parties for which the director of
11 revenue shall consider all offered evidence and witnesses
12 during an appeal of an assessment of certain property centrally
13 assessed by the department of revenue for purposes of property
14 taxation. This provision takes effect upon enactment and
15 applies retroactively to May 22, 2015.

16 UTILITY REPLACEMENT TAX TASK FORCE. The bill extends the
17 utility replacement tax task force to January 1, 2019, from
18 January 1, 2016. This task force was created to study the
19 effects of the replacement taxes on electricity and natural gas
20 providers and rate-regulated water utilities. This provision
21 takes effect upon enactment and applies retroactively to
22 January 1, 2016.

23 RENEWABLE ENERGY TAX CREDIT. The bill extends to January
24 1, 2018, from January 1, 2017, the date upon which a renewable
25 energy facility must be placed in service in order to qualify
26 for the renewable energy tax credit under Code chapter 476C,
27 and extends to December 31, 2027, from December 31, 2026, the
28 date on which renewable energy tax credit certificates shall no
29 longer be issued. These renewable energy tax credit provisions
30 take effect upon enactment and apply retroactively to January
31 1, 2016, for tax years beginning on or after that date.

32 For solar facilities with a generating capacity of 1.5
33 megawatts or less (small solar facilities) that are owned
34 or contracted for by electric cooperative associations,
35 municipally owned utilities, public utilities subject to rate

1 regulation, or electric cooperative associations (specified
2 utilities), the bill removes the requirement that the specified
3 utility must own at least 51 percent of the facility and
4 instead provides that the specified utility must own the
5 facility in whole or in part, directly or indirectly. Also
6 under current law for purposes of qualifying for the tax
7 credit, an owner of an eligible renewable energy facility shall
8 not own more than two eligible renewable energy facilities,
9 and a person that has an equity interest of at least 51
10 percent in an eligible renewable energy facility shall not
11 have an equity interest greater than 10 percent in any other
12 eligible renewable energy facility. The bill provides that
13 these restrictions shall not apply to small solar facilities,
14 but does provide that a specified utility shall not have an
15 ownership interest in more than four small solar facilities.
16 These renewable energy tax credit provisions take effect upon
17 enactment and apply retroactively to January 1, 2015, for tax
18 years beginning on or after that date, and apply retroactively
19 to applications for the renewable energy tax credit made on or
20 after June 26, 2015.